

COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES

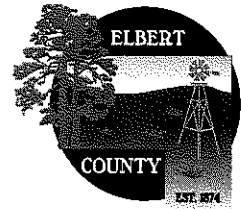
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BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING August 25, 2010

Consideration of the Recommended Certification from the Planning Commission for the Adoption of the Elbert County Zoning Regulations and the Elbert County Zoning Maps (Panels 1 through 7) Dated May 13, 2010

Staff Report

Presented By: Richard L. Miller, AICP

Summary: This public hearing is being heard by the Board of County Commissioners for adoption of the Elbert County Zoning Regulations and the Elbert County Zoning Maps (Panels 1 through 7), dated May 13, 2010.

Background Information: The Elbert County Planning Commission submitted the Elbert County Zoning Regulations and the Elbert County Zoning Maps, dated May 13, 2010 to the Director of the Division of Planning at the Department of Local Affairs for advice and recommendations (CRS 30-28-112). No comments were received from the Division of Planning at the Department of Local Affairs within the thirty (30) day review period, thus, the approval of Elbert County Zoning Regulations and Elbert County Zoning Maps, dated May 13, 2010 are presumed. The Elbert County Planning Commission reviewed the Elbert County Zoning Regulations and Elbert County Zoning Maps dated May 13, 2010, at their public hearing on May 13, 2010. Based upon their review, the Elbert County Planning Commission is certifying a copy of the Elbert County Zoning Regulations and Elbert County Zoning Maps dated May 13, 2010 to the Board of County Commissioners for adoption. Per statute, the Board of County Commissioners is required to publish notice of the time and place of the hearing in a newspaper of general circulation in the County at least fourteen (14) days prior to the public hearing (CRS 30-28-112). Such notice was published in the Ranchland News on August 5th, 2010 and the publisher's affidavit is on file in the Community & Development Services Office.

Specific Changes as Reviewed by the County Attorney and the Planning Commission: The County Attorney reviewed the previously-mentioned process for the certification of the Zoning Regulations and Zoning Maps. Additionally, the County

Attorney reviewed the changes to the Elbert County Zoning Regulations, which occur on the cover page through page 5 of the document. Both the process and text changes were reviewed and approved by the County Attorney. These same changes were reviewed by the Elbert County Planning Commission at their public hearing held on May 13th, 2010 and are included in the certified copy that they have forwarded to the Board of County Commissioners for adoption.

The specific changes are shown in red ink in the attached "Exhibit A" and are as follows:

- Cover page – the date of May 13th, 2010
- Page 1, Section D. entitled "Authority" – County Attorney made this change; the reference to the state statutes is incorrect. Where before the ZR document said "authorized by Article 28, Chapter 30", it has been changed to the proper wording to say "Article 28, Title 30".
- Page 3, Section K. "Zoning Map" removed the reference to July 5, 1983 thru 1997, which were certified per Resolution 07-103 on December 5, 2007. Replaced the first sentence with "The location of the zoning areas hereby established is shown on the map entitled "Official Zoning Map of Elbert County", dated May 13, 2010 and which were certified per Resolution _____ on _____, which is hereby made".
- Page 4 there are no changes. The County Attorney was asked whether or not, in Section P. "Repeals, Effective Date" item 1, the reference to the adoption date for Zoning Regulation on March 17, 1978 should be deleted and replace with the future adoption date. The County Attorney suggested we leave it as it is written, thus, there are no changes on page 4.
- Page 5 under Item 4 – second sentence referenced the public hearing notice having been advertized on June 2, 1983 has been removed and should be replaced with "Notice of public hearing hereon was advertized in the Ranchland News, Simla, Colorado, on August 5, 2010."
- Page 5 under Item 4 –third sentence referenced the date the public hearing being held on July 5th, 1983, has been removed and should be replaced with "Public hearing held on August 25th, 2010, pursuant to said notice." (Assumes the Board of County Commissioners adopts the Elbert County Zoning Regulations and the Elbert County Zoning Maps dated May 13, 2010, on August 25th, 2010. Should additional public hearing dates be required before adoption of the Regulations and Map, the additional dates will be added.)
- Page 5 under Item 4 – forth sentence references adoption date of regulations as

July 5th, 1983. This date has been removed and replaced with "These Regulations were adopted the 25th day of August, 2010." (Assumes the Board of County Commissioners adopts the Elbert County Zoning Regulations and the Elbert County Zoning Maps dated May 13, 2010, on August 25th, 2010.)

- Page 5, Item Q. 1., is entitled "Amendments". There were various dates when the Zoning Regulations were amended. All these dates have been eliminated because we are starting with a new document. As amendments and/or deletions are made in the future; those dates will be shown here.

Planning Commission Action: The Elbert County Planning Commission reviewed the Elbert County Zoning Regulations and Elbert County Zoning Maps dated May 13, 2010, at their public hearing on May 13, 2010. Based upon their review, the Elbert County Planning Commission is certifying a copy of the Elbert County Zoning Regulations and Elbert County Zoning Maps dated May 13, 2010 to the Board of County Commissioners for adoption.

Staff Recommendation and Proposed Conditions of Adoption: Community & Development Services recommends that the Board of County Commissioners accept the certified copy of the Elbert County Zoning Regulations and the Elbert County Zoning Maps, dated May 13, 2010, from the Elbert County Planning Commission, and adopt the same as the new zoning plan for Elbert County, with the following Conditions of Approval:

1. The following additions/deletions be made to the zoning plan (recommend changes are shown in red ink:
 - Cover page – add the date of May 13th, 2010
 - Page 1, Section D. entitled "Authority" –The language "authorized by Article 28, Chapter 30", should be changed to the proper wording to say "Article 28, Title 30".
 - Page 3, Section K. "Zoning Map" removed the reference to July 5, 1983 thru 1997, which were certified per Resolution 07-103 on December 5, 2007. Replaced the first sentence with "The location of the zoning areas hereby established is shown on the map entitled "Official Zoning Map of Elbert County", dated May 13, 2010 and which were certified per Resolution _____ on _____, which is hereby made, along with explanatory matter thereon, a part of this Regulation.".
 - Page 5 under Item 4 – second sentence referenced the public hearing notice having been advertized on June 2, 1983 has been removed and should be replaced with "Notice of public hearing hereon was advertized in the Ranchland

News, Simla, Colorado, on August 5, 2010."

- Page 5 under Item 4 –third sentence referenced the date the public hearing being held on July 5th, 1983, has been removed and should be replaced with "Public hearing held on August 25th, 2010, pursuant to said notice."
- Page 5 under Item 4 – forth sentence references adoption date of regulations as July 5th, 1983. This date has been removed and replaced with "These Regulations were adopted the 25th day of August, 2010."
- Page 5, Item Q. 1., entitled "Amendments" – Eliminate all dates and add all future dates as amendments and/or deletions are made.

2. Adopt the findings enumerated within.

Respectfully submitted,

Richard L. Miller, AICP
Director – Community & Development Services

Attachments – "Exhibit A"

“EXHIBIT A”

ELBERT COUNTY ZONING REGULATIONS

May 13, 2010

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PART 1, SECTION 1:

TITLE AND AUTHORITY

A. TITLE

The Elbert County Zoning Regulations and map establishing zoning areas in Elbert County, Colorado, regulating the use of buildings, structures and land; the location, height, bulk and size of buildings, fences and other structures; the lot size and percentage that may be occupied; the size of yards and other open spaces; the density and distribution of population; and providing further a description of certain terms used herein; penalties to be prescribed for the violation of these provisions; procedure for the amendment of these provisions and methods of administration and enforcement to be applied.

B. SHORT TITLE

For the purpose of brevity, these zoning regulations shall hereafter be referred to as the "**Elbert County Zoning Regulations**".

C. PURPOSE

These regulations shall be for the purpose of promoting the health, safety and welfare of the present and future inhabitants of Elbert County, Colorado, by lessening of congestion in the streets and roads; securing safety from fire and other dangers; providing adequate light and air; classification of land uses and distribution of land development and utilization; protection of the tax base; securing economy in governmental expenditures; fostering the State's agricultural and other industries and the protection of urban and non-urban development.

D. AUTHORITY

The Elbert County Zoning Regulations are authorized by Article 28, Title 30, of the Colorado Revised Statutes (CRS), 1973, as amended, and is hereby declared to be in accordance with all provisions of the Statutes.

E. MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Regulation shall be regarded as the minimum requirements for the protection of the public health, safety and welfare for present and future residents of Elbert County. Residences constructed or located upon lands in unincorporated areas of Elbert County shall meet living area minimum square footage requirements as set forth in Part II, Section 1 of these Regulations.

F. OVERLAPPING REGULATIONS

Except with respect to approved and recorded development guides within Planned

Unit Development (PUD) districts, whenever both a provision of this Regulation, or any provision in any other law, ordinance, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

G. EXISTING PERMITS, EASEMENTS, DEVELOPMENT GUIDES AND OTHER APPROVALS

The Elbert County Zoning Regulations are not intended to abrogate, annul, govern or prevail over any permits, easements or Development Guides issued prior to the effective date of these Regulations.

H. JURISDICTION

The Elbert County Zoning Regulations shall apply to all properties within the unincorporated area of the County of Elbert, Colorado.

I. FEES

The Board of County Commissioners shall establish and adopt a schedule of fees to be paid by the applicant/developer to defray the expenses of the County in the review and hearing of proposed developments, amendments and adjustments to approved and recorded plans.

J. ZONING AREAS

1. In order to carry out the purpose and provisions of these Regulations, the following zoning areas are hereby established:

a.	A	Agricultural	(60+ Acres)
b.	A-1	Agricultural-One	(MIN 35 Acres)
c.	A-2	Agricultural-Two	(MIN 20 Acres)
d.	AR	Agricultural Residential	(MIN 10 Acres)
e.	RA-1	Residential Agricultural-One	(MIN 5 Acres)
f.	RA-2	Residential Agricultural-Two	(MIN 2.5 Acres)
g.	R1	Residential One	(MIN 1.0 Acres)
h.	R2	Residential Two	(Under 1 Acre)
i.	MF	Multifamily	
j.	MH	Mobile Home Subdivision	
k.	B	Business District	
l.	C	Commercial District	
m.	LI	Light Industrial District	
n.	GI	General Industrial District	
o.	PUD	Planned Unit Development	

2. Where uncertainty exists as to the boundaries of areas shown on a zoning map, the following rules shall apply:
 - a. Boundaries indicated as approximately following the center lines of streets, highways, stream beds, railroad right-of-way or alleys shall be construed to follow such center lines.
 - b. Boundaries indicated as approximately following the right-of-way lines of streets, highways or alleys shall be construed to follow such right-of-way lines, and in event of change in the right-of-way line, shall be construed as moving with the right-of-way line.
 - c. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
 - d. Boundaries indicated as parallel to, or extensions of, features indicated in subsections a. through c. above shall be construed. Distances not specifically indicated on the official zoning area map shall be determined by the scale of the map.
 - e. Where a street or alley is vacated or abandoned the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned street or alley.
 - f. Disputes concerning the exact location of any district boundary line shall be decided by Community and Development Services. Where a lot is divided at the time of enactment of this Regulation, or any subsequent amendment thereto by a zoning area requirement, may be extended not more than twenty-five (25) feet into the more restrictive zoning district adjacent to such line.

K. ZONING MAP

The location of the zoning areas hereby established is shown on the map entitled "Official Zoning Map of Elbert County", dated May 13, 2010 and which were certified per Resolution _____ on _____, which is hereby made, along with explanatory matter thereon, a part of this Regulation. The Official Zoning Map, together with each amendment thereto, shall be filed in the office of the Elbert County Clerk; who shall also maintain a current map at all times. All amendments to the map made in conformity with this regulation shall be recorded on the map within thirty (30) days of its adoption, showing general location, effective date, and nature of the change. Unless otherwise specified on the Official Zoning Map, district boundaries shall be construed to lie on the center line of streets or alleys; on lot lines of platted subdivisions; on railroad right-of-way boundaries; on the boundary lines of incorporated areas; or on section lines.

No change shall be made to the Official Zoning Map, except in the manner hereafter set forth. Any unauthorized change to the Official Zoning Map by any person or persons shall be punishable as a misdemeanor and shall receive the same penalty as set forth in Section 1, Item M.

The current Zoning Map and Zoning Regulations will be available to the public in the Elbert County Community and Development Services and should be consulted for zoning information.

L. VIOLATIONS

No land in Elbert County shall be used, nor any building or structure erected, constructed, enlarged, altered, maintained, moved or used in violation of the Elbert County Zoning Regulations or amendments thereto. The Board of County Commissioners, through the County Attorney and court of appropriate jurisdiction, may initiate legal action to prevent, abate or remove such unlawful use, maintenance, erection, construction, reconstruction or alteration, in addition to any other remedies provided by law.

M. PENALTIES

Any person, firm, or corporation, whether as principle agent, employee or otherwise, who violates any of the provisions of this Regulation shall be fined an amount not to exceed one hundred dollars (\$100.00) for each such violation; such fine to inure to the County of Elbert, State of Colorado. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

N. ANY PROVISION DECLARED INVALID

If any provision of the Elbert County Zoning Regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to the legislative intent that:

1. The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
2. Such decision shall not affect, impair or nullify the Elbert County Zoning Regulations as a whole or any other part thereof, but the rest of these Regulations shall continue in full force and effect.

O. APPLICATION OF ANY PROVISION DECLARED INVALID

If the application of any provision of the Elbert County Zoning Regulation to any lot, building, other structure or tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:

1. The effect of such decision shall be limited to that lot, building, other structure or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of validity was rendered; and

2. Such decision shall not affect, impair or nullify the Elbert County Zoning Regulations as a whole, or the application of any provision thereof, to any other lot, building, other structure or tract of land.

P. REPEALS, EFFECTIVE DATE

1. These Elbert County Zoning Regulations shall repeal the Zoning Regulations of Elbert County, Colorado, adopted March 17, 1978 and amendments thereto.
2. Repeal of the above-mentioned regulations does not revive other regulations or portion thereof, except for those regulations which have been included and re-enacted as part of this Regulation.
3. Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any regulations repealed hereby, for any offense committed prior to the repeal.
4. These Regulations shall become effective on the date of adoption. Notice of public hearing hereon was advertised in the Ranchland News, Simla, Colorado, on August 5, 2010.

Public hearing held on August 25th, 2010, pursuant to said notice.

These Regulations were adopted the 25th day of August, 2010.

Board of County Commissioners of the County of Elbert, Colorado.

Q. AMENDMENTS

1. Amendments to the Elbert County Zoning Regulations were made on the dates listed below and are included in these Zoning Regulations.